IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

FRIDAY, THE 30TH DAY OF JANUARY 2026 / 10TH MAGHA, 1947

WP(C) NO. 43218 OF 2023

PETITIONER:

SANIL NARAYANAN NAMPOOTHIRI, AGED 51 YEARS
S/O. P.K. NARAYANAN NAMPOOTHIRI PERIYAMANA PUTHAN
MADHOM KAIPPUZHA, KULANADA P.O.
PATHANAMTHITTA - 689503

BY ADVS.
SRI.R.KRISHNA RAJ
SMT.E.S.SONI

RESPONDENTS:

1 **STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT DEPARTMENT OF REVENUE (DEVASWOM) KERALA GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001**

2 **TRAVANCORE DEVASWOM BOARD, REPRESENTED BY ITS SECRETARY DEVASWOM HEADQUARTERS, NANTHANCODE, KAWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695003**

3 **DEVASWOM COMMISSIONER, TRAVANCORE DEVASWOM BOARD DEVASWOM HEADQUARTERS, NANTHANCODE, KAWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695003**

4 ASSISTANT COMMISSIONER, KOLLAM GROUP, TRAVANCORE DEVASWOM BOARD KOLLAM ROAD, KOTTARAKKARA, KOLLAM, PIN - 691532

5 SUB GROUP OFFICER, ADOOR PARTHASARATI DEVASWOM TRAVANCORE DEVASWOM BOARD ADOOR P.O., PATHANAMTHITTA, PIN - 691523

6 TEMPLE ADVISORY COMMITTEE, SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA-691 523. REPRESENTED BY ITS PRESIDENT V. PREM CHAND CHARUVILAYIL, KARUVATTA, ADOOR P.O. PATHANAMTHITTA

7 V. PREM CHAND, CHARUVILAYIL, KARUVATTA, ADOOR P.O. PATHANAMTHITTA-691 523. PRESIDENT, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA

8 MANMADHAN NAIR, VATTATHARAYIL, ADOOR P.O. PATHANAMTHITTA-691 523. SECRETARY, TEMPLE ADVISORY COMMITTEE, SREE PARTHASARADHI TEMPLE, ADOOR P.O., PATHANAMTHITTA

9 PRAVEEN G, KUZHIAYYATH HOUSE MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523

0 MAHESH G, PRASANTHI MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523

11 MURALI, NEDIYAKALA THEKKETHIL MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523

12 GOPAKUMAR S, VILAYIL PUTHEN VEEDU MOONNALAM, ADOOR P.O. MEMBER, TEMPLE ADVISORY COMMITTEE SREE

PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523

13 **VENUGOPAL S, NANDANAM, MOONNALAM, ADOOR P.O. MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

14 **SAJUKUMAR R, THULASI BHAVANAM MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

15 **R. JINU, KARTHIKA, MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

16 **SASIDHARAN PILLAI V, SREE SIVAM MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

17 **GOKUL RAJASEKHARAN, M.G.VIHAR MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

18 **AJILKUMAR P, MEMANA VADAKKETHIL MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

19 **SANDEEP RAJ N, CHEMPAKASSERIL MEMBER, TEMPLE ADVISORY COMMITTEE SREE PARTHASARADHI TEMPLE ADOOR P.O., PATHANAMTHITTA, PIN - 691523**

BY ADVS.
SHRI.G.BIJU, SC, TRAVANCORE DEVASWOM BOARD
SRI. S. RAJMOHAN, SR GP
SRI.RENJITH.R
SMT.ANJU MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08.12.2025, THE COURT ON 30.01.2026 DELIVERED THE FOLLOWING:

'CR'

JUDGMENT

K. V. Jayakumar, J.

"Matru Devo Bhava
Pitru Devo Bhava,
Acharya Devo Bhava,
Atithi Devo Bhava."

'These injunctions are given by a teacher to students at the completion of their Vedic education and comes specifically from the Taittirīya Upaniṣad, which is a part of the Taittirīya Āraṇyaka of the Krishna Yajurveda.
The above verse signifies that mother, father, teacher, and guest are equivalent to God and are to be treated with respect and honour.'

This Writ Petition is filed under Article 226 of the Constitution of India, by the petitioner, Sri. Sanil Narayanan Nampoothiri, who is a teacher by profession. The petitioner states that he is a devotee of Adoor Sree Parthasarathy Temple, which is under the management of the Travancore Devaswom Board.

2. The petitioner states that on 07.09.2023, two Christian priests, Dr. Zacharias Mar Aprem and another priest, were invited to the temple to attend a function in connection with the Sreekrishna Jayanthi celebration.

They attended the public meeting held inside the temple compound. The petitioner further states that, after the public meeting, the Sub Group Officer and the members of the Temple Advisory Committee took the said Christian priests inside the temple, and certain gifts were presented at a function conducted in front of the Sreekovil. The devotees present in the temple objected to the said act, pointing out that Christian priests are not permitted to enter the temple, particularly while wearing their priestly robes.

3. The petitioner states that non-Hindus are not permitted to enter Hindu temples. The petitioner further asserts that the temple authorities, including the Temple Advisory Committee, have ignored the protest of the devotees and permitted the entry of two priests in their priestly robes, violating the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 (‘the Act’ for the sake of brevity) and the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 (‘the Rules’ for the sake of brevity). In order to substantiate the contention, the petitioner has produced a copy of the news item published in Malayala Manorama Daily on 08.09.2023.

4. On 29.09.2023, the petitioner issued Ext. P2 lawyer notice to the Sub Group Officer, Kottarakkara Group, requesting him to take strict action against the officers responsible and to ensure that such incidents do not recur in the future. It is in the above backdrop, the petitioner approached this Court seeking the following reliefs:

"a. Issue a writ of mandamus or such other writ or order or direction, directing the 2nd respondent and 3rd respondent to take appropriate action against respondents 5 to 19 for violating the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act 1965 and Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules 1965 by permitting the entry of two Christian priests inside of nalambalam of Sree Parthasarathi Temple, Adoor on 7.9.2023.

b. To declare that the entry of two priests inside the nalambalam of Sree Parthasarathi temple on 7.9.2023 wearing full robes is in violation of the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act 1965 and Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules 1965 and that respondents have no authority whatsoever to permit the entry of non Hindus and persons who are violating the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act 1965 and Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules 1965 in to the temple by the issue of an appropriate writ order or direction.

c. Issue a writ of mandamus or such other writ or order or direction, commanding the respondents not to permit entry of non-Hindus and any persons in violation of the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act 1965 and Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules 1965 in Sree Parthasarathi temple.

d. Issue a writ of mandamus or such other writ or order or direction, directing the Devaswom Board to take immediate action of terminating the 6th respondent the Temple Advisory Committee and respondents 7 to 19 from the Temple Advisory Committee for violating the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act 1965 and Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules 1965 by

permitting the entry of two Christian priests inside the nalamabalam of the Sree Parthasarathi temple on 7.9.2023.

e. Issue a writ of mandamus or such other writ or order or direction, commanding respondents 2 to 5 to conduct appropriate curative rituals in the temple as suggested by the Thanthri permit so as to maintain the divinity of Sree Parthasarathi temple."

5. The second respondent, Travancore Devaswom Board, has filed a counter affidavit. In the counter affidavit, it is admitted that Dr. Zacharias Mar Aprem Thirumeni, a Christian Priest, reached the Adoor Parthasarathy Temple premises to inaugurate the 'Shobha Yatra' conducted in connection with Sreekrishna Jayanthi celebrations. The said Priest was invited by the Temple Advisory Committee of the temple without prior intimation to the Sub Group Officer.

6. It is further stated in the counter that after the inauguration programme, the priests expressed their desire to enter the temple and sought permission for the same. The office bearers of the temple obtained permission from the Thantri of the temple. Since the Thantri has granted permission for the entry, the Sub Group Officer did not object to the entry of the guests into the temple. There was no practice or custom in the temple to remove the shirt before entering the temple. The Temple Advisory Committee started such a practice a few years back. The Sub Group Officer reported that Dr. Zacharias Mar Aprem entered the temple, offered prayers and received prasadam. The Board in their counter, contended that the rituals and rites of the temple are not violated by the entry of the priests.

7. Respondents 7 to 19, the members of the Temple Advisory Committee, have also placed on record the counter-affidavit as directed by the Court. In their counter, it is stated that the Writ Petition is not maintainable and it is an abuse of the process of law. Dr. Zacharias Mar Aprem Thirumeni, after the inauguration of the Shobha Yatra, has expressed his desire to enter the temple and sought permission. At that time, the office bearers of the Temple Advisory Committee obtained permission from Thantri over the phone and permitted him to enter the temple. The devotees, gathered in large numbers, did not object to the entry of the priests inside the temple.

8. The petitioner filed a reply affidavit denying and refuting the contentions of the Board.

9. We have heard the submissions of Sri. Krishna Raj, learned counsel of the petitioner, Sri. G. Biju, learned Standing Counsel for Travancore Devaswom Board and Sri. Renjith R., learned counsel for respondents 7 to 19 and perused the pleadings and materials placed on record. We have also heard the submissions of Sri. Krishnanunni and Sri. Jacob P. Alex, the Amici Curiae, appointed by this Court as per the interim order dated 19.09.2025.

10. The principal submission of the learned counsel for the petitioner is that the entry of a non-Hindu, that too, in his priestly robes, is violative of various provisions of the Act and the Rules. According to the petitioner, strict action is to be taken against the office bearers of the Temple Advisory Committee and the officers of the Board.

11. Sri. Krishna Raj, the learned counsel for the petitioner, would submit that the entry of Christian priests in Sree Adoor Parthasarathi Temple wearing the priestly robes is a violation of the statutory provisions of the Act. The petitioner seeks a declaration that the entry of priests into the Nalambalam of the temple wearing their priestly robes constitutes a violation of the provisions of the Act and the Rules. According to the petitioner, the respondents have no authority whatsoever to permit the entry of non-Hindus into the Temple. He also seeks a Writ of mandamus, commanding the respondents not to permit entry of non-Hindus into the Temple.

12. Per contra, the stand of the Devaswom Board, its officers, and the Temple Advisory Committee is that Dr. Zacharias Mar Aprem was a guest and invitee of the temple. His entry was not unlawful, as permission had been granted by the Thantri, considering the fact that he was a Guest of Honour. The entry of the priests inside the temple near the Sreekovil would not affect the rites, rituals and customs of the temple. The provisions of the Rules are intended to maintain the decorum and decency in the temple and not to humiliate and insult a guest.

The submissions of the Amici Curiae

13. The learned Amici Curiae, after referring the various Articles of the Constitution of India, the binding precedents of the Apex Court, the Act and Rules would submit that the restriction imposed under Section 3(a) of the Rules, preventing the entry of a non-Hindu could be treated as a ‘religious

practice'; but it is not an 'essential religious practice'. According to the learned Amici Curiae, the core of the Hindu religion would not change by permitting or preventing the entry of a non-Hindu worshiper to a Hindu religious institution. Reliance was placed in the judgments of **Commissioner of Police v. Acharya Jagadishwarananda Avadhuta[1], (Anandamargi's Case), Shayara Bano v. Union of India[2], and Indian Young Lawyers Association v. State of Kerala[3], (Sabarimala case)**. The counsel submits that the entry to a public place of worship is dependent on its customs, usages and practices. The entry can be regulated by the Trustee and the Devaswom Board in consultation with the Thanthri.

14. Placing reliance on **Nar Hari Shastri v. Shri Badrinath Temple Committee[4], and Sri Venkataramana Devaru v. State of Mysore[5],** learned Amici Curiae submitted that the right to enter public temples is not unregulated or unrestricted. The learned Amici would point out that there is no uniform practice of rituals in every temple of Kerala, and the rights and the rituals vary from temple to temple. The learned Amicus curiae, quoting **Shastri Yagnapurushdasji v. Muldas Bhundardas Vaishya[6], Seshammal v. State of T.N.[7],** and **N. Adithayan v. Travancore Devaswom Board[8],** would submit that entry to a temple is dependent on religious practices.

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1 (2004) 12 SCC 770
2 (2017) 9 SCC 1
3 (2019) 11 SCC 1
4 (1952) 1 SCC 689
5 1957 SCC OnLine SC 138
6 1966 SCC OnLine SC 198
7 (1972) 2 SCC 11
8 (2002) 8 SCC 106

15. The learned Amici would then argue that if custom/practices of a temple permit the entry of a non-Hindu worshiper to enter a Hindu religious institution of a public character, then such persons can be permitted to enter. He has pointed out the judgment of the Apex Court in **Indian Young Lawyers Association** (Supra) and submitted that in Sabarimala, there is a practice of permitting the entry of non-Hindus to the temple.

16. The counsel would submit that the blanket exclusion provided under Rule 3 and Rule 3(a) of the 1965 Rules is impossible to comply with, unreasonable and beyond the scope of 1965 Act. The learned Amici Curiae would then point out that the doctrine of *lex non cogit impossibilia* is applicable to Rule 3 and Rule 3(a) of the 1965 Rules as it is impracticable and unenforceable. Reliance was also placed on **Indore Development Authority v. Manoharlal**[9]**,** and **State of M.P. v. Narmada Bachao Andolan**[10]. The learned counsels would further submit that it is permissible for the constitutional courts to decide the question of validity of a subordinate legislation, even if the same is not challenged. In support of this proposition, the learned Amicus Curiae has referred to the judgments in **Janhit Abhiyan v. Union of India (EWS Reservation)**[11]**,** and **Yogendra Kumar Jaiswal v. State of Bihar**[12]**.**

17. Before we proceed to discuss the issues, it would be useful to extract the relevant Act and Rule. The Preamble and Sections 2 to 6 of the

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[9] (2020) 8 SCC 129
[10] (2011) 7 SCC 639
[11] (2023) 5 SCC 1
[12] (2016) 3 SCC 183

Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 are extracted hereunder:

> **"Preamble:-** Whereas it is expedient to make better provisions for the entry of all classes and sections of Hindus into places of public worship;
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> xxxxxxxxx
>
> **2. Definitions.-** In this Act, unless the context otherwise requires,-
>
> (a) "Hindu includes a person professing the Buddhist, Sikh or Jaina religion;
> (b) "place of public worship" means a place, by whatever name known or to whomsoever belonging, which is dedicated to, or for the benefit of, or is used generally by, Hindus or any section or class thereof, for the performance of any religious service or for offering prayers therein, and includes all lands and subsidiary shrines, mutts, devasthanams, namaskara mandapams and nalambalams, appurtenant or attached to any such place, and also any shared tanks, wells, springs and water courses the waters of which are worshipped, or are used for bathing or for worship, but does not include a "sreekoil";
> (c) "sections or class" includes any division, sub-division, caste, sub-caste, sect or denomination whatsoever.
>
> **3. Places of public worship to be open to all sections and classes of Hindus.-** Notwithstanding anything to the contrary contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of Court, every place of public worship which is open to Hindus generally or to any section or class thereof, shall be open to all sections and classes of Hindus; and no Hindu of whatsoever section or class shall, in any manner, be prevented, obstructed or discouraged from entering such place

of public worship, or from worshipping or offering prayers there at, or performing any religious service therein, in the like manner and to the like extent as any other Hindu of whatsoever section or class may so enter, worship, pray or perform:

Provided that in the case of a place of public worship which is a temple founded for the benefit of any religious denomination or section thereof, the provisions of this section shall be subject to the right of that religious denomination or section, as the case may be, to manage its own affairs in matters of religion.

4. Power to make regulations for the maintenance of order and decorum and the due performance of rites and ceremonies in places of public worship.-(1) The trustee or any other person in charge of any place of public worship shall have power, subject to the control of the competent authority and any rules which may be made by that authority, to make regulations for the maintenance of order and decorum in the place of public worship and the due observance of the religious rites and ceremonies performed therein:

Provided that no regulation made under this sub-section shall discriminate in any manner whatsoever, against any Hindu on the ground that he belongs to a particular section or class.

(2) The competent authority referred to in sub-section (1) shall be,-

(i) in relation to a place of public worship situated in any area to which Part I of the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950), extends, the Travancore Devaswom Board;

(ii) in relation to a place of public worship situated in any area to which Part II of the said Act extends, the Cochin Devaswom Board; and

(iii) in relation to a place of public worship situated in any area in the State of Kerala, the Government.

> **5. Penalty.-** Whoever, in contravention of Section 3,-
> (a) prevents or attempts to prevent any person belonging to any section or class of Hindus from entering, worshipping or offering prayers, performing any religious service, in any place of public worship; or
> (b) obstructs, or causes or attempts to cause obstruction to, or by threat of obstruction or otherwise discourages, any such person from doing or performing any of the acts aforesaid,
> shall be punishable with imprisonment which may extent to six months, or with fine which may extent to five hundred rupees, or with both:
>
> Provided that in a case where a sentence of fine only is awarded, such fine shall not be less than fifty rupees.
>
> **6. Abetment of offences.-** Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence."

18. The relevant Rules of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules are extracted hereunder:

> **1.** In these rules, the expression "executive authority" of a place of public worship shall mean the trustee or any other person in charge of a place of public worship.
>
> **2.** Worshippers shall conform to the regulations made by the executive authority of a place of public worship for the maintenance of order and decorum in the place of public worship and the due observance of the religious rites and ceremonies performed therein:
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> Provided that if such regulations are rescinded, revoked, amended or varied, by the Commissioner, Hindu Religious and Charitable Endowments (Administration) Department under Rule 10, worshippers shall conform to the regulations as so rescinded,

revoked, amended or varied.

3. The classes of persons mentioned hereunder shall not be entitled to enter or offer worship in any place of public worship or bathe in or use the waters of any sacred tank, well, spring or water-course appurtenant to a place of public worship whether situate within or outside the precincts thereof or any sacred place including a hill or hillock or a road, street, or pathway which is requisite for obtaining access to the place of public worship--
(a) Persons who are not Hindus.
(b) Women at such a time during which they are not by custom and usage allowed to enter a place of public worship.
(c) Persons under pollution arising out of birth or death in their families.
(d) Drunken or disorderly persons.
(e) Persons suffering from any loathsome of contagious disease.
(f) Persons of unsound mind except when taken for worship under proper control and with the permission of the executive authority of the place of public worship concerned.
(g) Professional beggars when their entry is solely for the purpose of begging.

4. No person shall enter into premises of any place of public worship unless he has had bath and wears clean clothes or such materials and in such manner as is customary, in such place of public worship. No person shall enter a place of public worship with any footwear.

5. No person shall-
(i) within the premises of any place of public worship spit, chew betel, tobacco or any similar article, or smoke or carry with him into the temple any article for smoking, or
(ii) take to the premises of any place of public worship fish, eggs, meat, flesh, toddy, arrack or other Intoxicants, or any article or animal inappropriate according to the custom usage of the place of public worship concerned, or
(iii) do any act which is opposed to custom or established usage of the place of public worship or would tend to derogate from the

purity and cleanliness of the place of public worship and its premises.

6. No person shall interrupt the worship in a place of public worship by loud conversations or other demonstrations which will derogate from the solemnity or the proper atmosphere of worship in the place of public worship.

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10. Regulations made by the executive authority of a place of public worship may be rescinded, revoked, amended or varied by the Commissioner H.R & C.E (Admn), Department.

11. If any person contravenes or its suspected or believed by the executive authority of a place of public worship to have contravened any of the provisions of these Rules, it shall be lawful for the executive authority of the place of public worship concerned, to direct such person to remove himself from the place of public worship or its premises and in case such person refuses to abide by such direction to cause him to be removed from the place of public worship or its premises.

12. No suit, prosecution, or other legal proceeding shall lie against any executive authority of a place of public worship or any person acting under his direction for anything in good faith done in pursuance of these rules.

13. If any, difficulty arises regarding the interpretation or the carrying out of any of the provisions of these Rules, the matter shall be referred to the state government whose decision shall be final.

19. We have carefully gone through the various statutory provisions of the Act and the Rules. The preamble of the Act states the object of the enactment, which is to make better provisions for the entry of all classes and

sections of Hindus into places of public worship.

20. Section 2(a) of the Act defines the term 'Hindu'. 'Hindu'includes a person professing the Buddhist, Sikh or Jaina religion. Section 2(c) defines 'sections or class' as including any division, sub-division, caste, sub-caste, sect or denomination whatsoever.

21. The non-obstante clause in Section 3 states that the places of public worship should be open to all sections and classes of Hindus. Section 3 enjoins that any section of the Hindu shall not be prevented or obstructed from entering into a place of religious worship. Section 4 is the source of power for making regulations for the maintenance of order or decorum in the places of public worship and for the due observance of the religious rites and ceremonies. The proviso to Section 4 mandates that there shall not be any discrimination on the grounds of section or class. Section 5 provides the penalty for the violation of Section 3 of the Act. The offender shall be punished with imprisonment which may extend to six months, or with a fine.

22. The Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 was enacted in exercise of the powers conferred under Section 4 of the Act, 1965. Rule 3 Sub Clauses (a) to (g) prohibit the entry of certain classes of persons to any place of public worship or to take a bath in the sacred pond, tank, well, etc., in the precincts of the temple. Sub clause (a) prohibits the entry of persons who are non-Hindus. Rule 4 imposes certain conditions, such as taking bath and removal of footwear before entering into

a place of worship.

23. On a conjoint reading of the Sections and the Rules, it is clear that the Rules are made for the maintenance of order and decorum and for ensuring due performance of rites and ceremonies in a Temple.

24. In the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965, there is no provision prohibiting the entry of non-Hindus to a place of religious worship. However, when the Rule was made, sub-clause (a) of Rule 3 prohibited the entry of non-Hindus into a place of religious worship. Additionally, Clauses (b) to (g) have also restricted the entry of persons on certain contingencies.

25. It is pertinent to note that Rule 11 of the 1965 Rules would make it clear that if any of the provisions of the Rules are violated, the Executive Authority of the Temple can remove the person who violated the Rules from the Temple and if the latter refuses to do so the Trustee of the Temple can cause him to be removed from the place of public worship. In other words, the maximum consequence that would ensue if any of the Rules are violated is to remove the person who infringed the rules.

26. On a bare perusal of the Rules, it could be seen that the Rules are so framed to maintain the decency and decorum and the orderly behaviour in the temple. Many of the Rules under the 1965 Rules are impracticable and difficult to enforce or execute. Most of the aspects referred to in the 1965

Rules are within the special knowledge of the person who intends to enter into the public religious institution. Whenever the legislature enacts provisions of a statute, or rule-making authority exercises its powers conferred on it by the parent Act, it is obligatory on such authorities to ensure that the provisions, rules, or regulations should be enforceable and executable.

27. In **Indian Young Lawyers Association**(Supra), the Apex Court has declared that Rule R3(b) is ultra vires to Sections 3 and 4 of the Act. The relevant paragraphs of **Indian Young Lawyers Association** (supra) read thus:

> "139. It was clearly held in this case that the rule - making power, which is provided under a statute with the aim of facilitating the implementation of the statute, does not confer power on any authority to bring into existence substantive rights or obligations or disabilities which are not contemplated in terms of the provisions of the said Act. The Court, further, went on to hold that:
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> "The image of law which flows from this framework is its neutrality and objectivity: the ability of law to put sphere of general decision - making outside the discretionary power of those wielding governmental power. Law has to provide a basic level of "legal security" by assuring that law is knowable, dependable and shielded from excessive manipulation. In the contest of rulemaking, delegated legislation should establish the structural conditions within which those processes can function effectively. The question which needs to be asked is whether delegated legislation promotes rational and accountable policy implementation. While we say so, we are not oblivious of the contours of the judicial review of the legislative Acts. But, we

have made all endeavours to keep ourselves confined within the well - known parameters.

140. At this stage, we may also benefit from the observations made in State of T.N. and another v. P. Krishnamurthy and others, 2006 (4) SCC 517 wherein it was stated that where a rule is directly inconsistent with a mandatory provision of the statute, then, of course, the task of the court is simple and easy. This implies that if a rule is directly hit for being violative of the provisions of the enabling statute, then the Courts need not have to look in any other direction but declare the said rule as invalid on the said ground alone.

141. R.3(b) seeks to protect custom and usage by not allowing women, Hindu women to be specific, to enter a place of public worship at such times during which they are not so allowed to enter by the said custom or usage. A cursory reading of R.3(b) divulges that it is ultra vires both S.3 as well as S.4 of the 1965 Act, the reason being that S.3 being a non - obstante provision clearly stipulates that every place of public worship shall be open to all classes and sections of Hindus, women being one of them, irrespective of any custom or usage to the contrary.

142. That apart, R.3(b) is also ultra vires S.4 of the 1965 Act as the proviso to S.4(1) creates an exception to the effect that the regulations / rules made under S.4(1) shall not discriminate, in any manner whatsoever, against any Hindu on the ground that he / she belongs to a particular section or class.

143. The language of both the provisions, that is, S.3 and the proviso to S.4(1) of the 1965 Act, clearly indicates that custom and usage must make space to the rights of all sections and classes of Hindus to offer prayers at places of public worship. Any interpretation to the contrary would annihilate the purpose of the 1965 Act and the fundamental right to practise religion guaranteed under Art.25(1). It is clear as crystal that the provisions of the 1965 Act are liberal in nature so as to allow entry to all sections and classes of Hindus including Scheduled

> Castes and Scheduled Tribes. But framing of R.3(b) of the 1965 Rules under the garb of S.4(1) would violate the very purpose of the 1965 Act."

28. The law declared in **Indian Young Lawyers Association and others** (supra) was challenged by Kantaru Rajeevaru, and the matter was referred to a Constitution Bench of the Apex Court.

29. In **Kunj Behari Lal Butail and Others v. State of H.P. and Others**[13], it is observed by the three Bench of the Apex Court as under:

> "It is very common for the legislature to provide for a general rule making power to carry out the purpose of the Act. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the test of having been so framed as to fall within the scope of such general power confirmed. If the rule making power is not expressed in such a usual general form then it shall have to be seen if the rules made are protected by the limits prescribed by the parent act.
>
> A delegated power to legislate by making rules "for carrying out the purposes of the Act" is a general delegation without laying down any guidelines; it cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself."

30. The Apex Court in **St. John's Teachers Training Institute v. Regional Director, NCTE**[14] and **Petroleum and Natural Gas Regulatory**

[13] 2000 KHC 1020
[14] 2003 (3) SCC 321

Board v. Indraprastha Gas Ltd. and Others[15] observed that delegated legislation is meant to supplement not supplant the enabling statute.

31. **In Gaurav Kumar v. Union of India**[16]**,** the Apex Court reiterated the principle in paragraph 66 as follows:

> "66. From the above discussion, we can cull out the following principles: (i) a delegate cannot act contrary to the express provisions and object of the parent legislation; (ii) a delegate cannot widen or constrict the scope of the parent legislation or the legislative policy prescribed under it; and (iii) a fiscal provision has to be construed strictly and a delegate cannot consider any circumstance, factors or condition not contemplated by the parent legislation."

32. On going through the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act and the repealed Act, the Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950, it is crystal clear that the object of these enactments is to permit the entry of all sects and classes of Hindus into the Temple and to avoid any discrimination among them.

33. However, while framing the Rules, a new aspect which was not a subject matter of the Act crept into the Rules. Rule 3(a) of the Rules specifically prohibits the entry of persons who are not Hindus into the temples. In the Act, there is no provision prohibiting the entry of non-Hindus. The Apex Court in the afore-mentioned judgements

[15] AIR 2015 SC 2978
[16] 2024 KHC 6400

categorically declared that a subordinate legislation cannot go beyond the scope of the parent Act. The law is well settled on this point that if there is any inconsistency between the parent Act and the Rules made thereunder, the former shall prevail.

34. In **Nar Hari Shastri** (supra), the Apex Court would observe that the right of entry into a public temple is not an unregulated or unrestricted right. It is open to the Trustees of a public Temple to regulate the time of public visits, or access may be denied to certain sacred parts of the Temple. It is always competent to the Temple authorities to make and enforce rules to ensure good order and decency of worship.

35. In **Shastri Yagnapurushdasji** (Supra), the Apex Court in paragraph 29 is observed as follows:

> **"29.** When we think of the Hindu religion, we find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more."

36. In **N. Adithayan** (supra), the Apex Court in paragraph No. 17 observed as under:

> "17. Where a temple has been constructed and consecrated as per Agamas, it is considered necessary to perform the daily rituals, poojas and recitations as required to maintain the sanctity of the idol and it is not that in respect of any and every temple any such uniform rigour of rituals can be sought to be enforced, dehors its origin, the manner of construction or method of consecration. No doubt only a qualified person well versed and properly trained for the purpose alone can perform poojas in the temple since he has not only to enter into the sanctum sanctorum but also touch the idol installed therein……."

37. The Apex Court in paragraph No. 13 of the **Seshammal** (supra), observed as under:

> **"13.** This Court in *Sardar Syedna Taher Saifuddin Saheb* v. *State of Bombay* [1962 Supp (2) SCR 496] has summarised the position in law as follows (p. 531 and 532):
>
> "The content of Articles 25 and 26 of the Constitution came up for consideration before this Court in *Commissioner, Hindu Religious Endowments, Madras* v. *Sri Lakshmindra Thirtha Swamiar of Sri Shirur Math* [1954 SCR 1005] , *Mahant Jagannath Ramanuj Das* v. *State of Orissa* [1954 SCR 1046] , *Sri Venkataramana Devaru* v. *State of Mysore* [1958 SCR 895] , *Durgah Committee, Ajmer* v. *Syed Hussain Ali* [(1962) 1 SCR 383] and several other cases and the main principles underlying these provisions have by these decisions been placed beyond controversy. The first is that the protection of these articles is not limited to matters of doctrine or belief they extend also to acts done in pursuance of religion and therefore contain a guarantee for rituals and observances, ceremonies and modes of worship which are integral parts of religion. The second is that what constitutes an essential part of a religious or religious practice has to be decided by the courts with reference to the doctrine of a

> particular religion and include practices which are regarded by the community as a part of its religion."

38. Coming to the facts of the instant case, it is evident that two Christian priests entered the temple premises and offered prayers not as members of the general public, but strictly in their capacity as invitees and guests. In other words, their entry into the temple was a permissive entry, expressly authorised by the Thanthri of the temple. It is well settled that the Thanthri occupies a pivotal and sacrosanct position in the temple hierarchy and is traditionally regarded as the spiritual custodian and ritual authority — often described as the father of the deity. An entry permitted by the Thanthri, in the capacity of an Athithi (guest) or a special invitee, is fundamentally distinct from an entry claimed as a matter of right. Such a permissive and ceremonial entry, in our considered view, cannot be construed as a violation of the provisions of the Act, the Rules framed thereunder, or the established rites, usages and customs governing the temple.

39. The very object and purpose of law is to secure social harmony and promote the welfare of citizens. Law is not static; it is dynamic and evolves with the changing needs and realities of society. As society advances and becomes more inclusive, statutory provisions and subordinate legislation must be interpreted in a manner that advances constitutional values and social cohesion. Statutes, rules and regulations ought not to be permitted to become instruments for fomenting discord or disharmony between different religions, castes, sub-castes or communities. On the contrary, the legal framework must

function as a unifying force that fosters mutual respect and coexistence.

40. In the present case, there is no direct challenge to the constitutional validity of the provisions of the parent Act or the Rules. However, we have already noticed an apparent inconsistency between the provisions of the parent Act and Rule 3(a) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965. It is therefore for the Government to examine whether Rule 3(a) requires reconsideration, amendment or modification so as to bring it in consonance with the legislative intent and constitutional principles. Rule 13 of the Rules explicitly provides that questions relating to the interpretation of the Rules shall be referred to the Government and that the decision of the Government thereon shall be final. In view of the same, it is for the Government to consider whether Rule 3(a) should be retained in its present form or suitably amended, after due consultation with the Devaswom Board, Thanthris, religious scholars and other relevant stakeholders.

41. In the light of the foregoing discussion and analysis, we are of the considered view that the reliefs sought in the Writ Petition cannot be granted. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

42. Before parting with this matter, we deem it appropriate to place on record our appreciation for the valuable assistance rendered by Sri. Krishnanunni**,** learned Senior Counsel, and Sri. Jacob P. Alex, learned

counsel, who have made sincere and commendable efforts to place before this Court the relevant constitutional and statutory provisions as well as binding precedents of the Hon'ble Supreme Court, thereby enabling this Court to effectively and comprehensively adjudicate the legal issues that arose for consideration.

Sd/-
RAJA VIJAYARAGHAVAN V
JUDGE

Sd/-

K. V. JAYAKUMAR
JUDGE

Sbna/BR

APPENDIX OF WP(C) NO. 43218 OF 2023

PETITIONER EXHIBITS

Exhibit P- 1	**TRUE COPY OF THE NEWSPAPER REPORT REGARDING THE ENTRY OF THE PRIESTS IN SREE PARTHASARATHI TEMPLE, PUBLISHED BY MALAYALA MANORAMA DATED 08.09.2023**
Exhibit P- 2	**TRUE COPY OF THE NOTICE ISSUED BY THE PETITIONER TO THE SUB GROUP OFFICER DATED 29.09.2023**